

ONE HUNDRED SIXTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

January 29, 2019

The Honorable Andrew Wheeler  
Acting Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington DC 20004

Dear Acting Administrator Wheeler:

Pursuant to Rules X and XI of the U.S. House of Representatives, we write again to request additional information regarding actions by Environmental Protection Agency (EPA) political appointees to block the release of a chemical hazard study focused on perfluorinated compounds (PFAS). EPA documents released appear to show that political appointees engaged with political staff at the White House to impede plans by the Agency for Toxic Substances and Disease Registry (ATSDR) to release an assessment of PFAS. We are deeply concerned that these actions appear to indicate that politics, and potentially industry interests, are being placed before public health, particularly in light of reports that EPA has decided to not set a drinking water limit for several toxic chemicals.

On May 21, 2018, we wrote to your predecessor, Scott Pruitt, and requested documents and information to understand the role of EPA political appointees in blocking the chemical hazard study. To date, EPA has failed to provide documents requested and has otherwise failed to substantively respond to our request. We, therefore, reiterate our request.

PFAS are a class of industrial chemicals that the Department of Defense (DOD) has used in firefighting exercises and by industry in the production of Teflon and Scotchguard, among other products.<sup>1</sup> The levels of these chemicals EPA has previously considered safe have been

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<sup>1</sup> Environmental Protection Agency, Understanding PFAS in the Environment (Feb. 26, 2018) ([www.epa.gov/sciencematters/understanding-pfas-environment](http://www.epa.gov/sciencematters/understanding-pfas-environment)).

widely criticized.<sup>2</sup> These chemicals are persistent and toxic. EPA has found risks from these chemicals including cancer, immune effects, liver effects, and birth defects.<sup>3</sup>

Former Administrator Scott Pruitt testified before Congress that he was “not aware that there had been some holding back of the report.”<sup>4</sup> However, several top EPA political appointees, including your Chief of Staff Ryan Jackson, Dr. Nancy Beck, and Dr. Richard Yamada, appear to have participated in the effort.<sup>5</sup> An email chain released through a Freedom of Information Act request suggests the effort began because the draft assessment by ATSDR found Minimal Risk Levels for several PFAS at levels much lower than EPA’s health advisory. In particular, a January 30, 2018 email states, in part: “[t]he public, media, and Congressional reaction to these new numbers is going to be huge. The impact to EPA and DOD is going to be extremely painful. We (DOD and EPA) cannot seem to get ATSDR to realize the potential public relations nightmare this is going to be.”<sup>6</sup>

The impacts of ATSDR’s assessment could also be significant for several chemical companies with responsibility for sites contaminated with PFAS, primarily DuPont, Chemours, and 3M. That is why we are concerned by an entry from Dr. Yamada’s calendar for the day after the email exchange cited above. On January 31, 2018 at 1 pm, it appears that Dr. Yamada attended a meeting entitled “ACC Cross-Agency PFAS Effort.”<sup>7</sup> This could indicate that Dr. Yamada, and potentially other EPA political appointees, were meeting with outside stakeholders from the American Chemistry Council (ACC) to discuss the interagency process related to PFAS, and possibly their efforts to suppress the ATSDR assessment.

Prior to joining EPA, Dr. Beck worked at the ACC, a trade association representing the chemical industry and, according to EPA ethics officials, she had a covered relationship with the ACC under impartiality standards until April 21, 2018.<sup>8</sup> Pursuant to the waiver provided Dr.

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<sup>2</sup> New Jersey Drinking Water Quality Institute – Health Effects Subcommittee, *Health-Based Maximum Contaminant Level Support Document: Perfluorooctane Sulfonate* (Nov. 15, 2017) ([www.nj.gov/dep/watersupply/pdf/dwqi-pfos-mcl-draft.pdf](http://www.nj.gov/dep/watersupply/pdf/dwqi-pfos-mcl-draft.pdf)).

<sup>3</sup> Environmental Protection Agency, Fact Sheet: PFOA and PFOS Drinking Water Health Advisories (Nov. 2016).

<sup>4</sup> *Pruitt Says he was Unaware of Interference with HHS Chemical Study*, Politico (May 16, 2018) ([subscriber.politicopro.com/energy/article/2018/05/pruitt-says-he-was-unaware-of-interference-with-hhs-chemical-study-1230991](http://subscriber.politicopro.com/energy/article/2018/05/pruitt-says-he-was-unaware-of-interference-with-hhs-chemical-study-1230991)).

<sup>5</sup> E-mail from Dr. Richard Yamada to Nancy Beck, Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency (Jan. 30, 2018) ([subscriber.politicopro.com/f/?id=00000163-5740-d92c-a17f-ffd412b90001](http://subscriber.politicopro.com/f/?id=00000163-5740-d92c-a17f-ffd412b90001)).

<sup>6</sup> *Id.*

<sup>7</sup> Dr. Richard Yamada Calendar (Jan. 2018).

<sup>8</sup> Memorandum from Kevin S. Minoli, Designated Agency Ethics Official and Principal Deputy General Counsel, to Nancy Beck, Ph. D., DABT, Deputy Assistant Administrator, Office

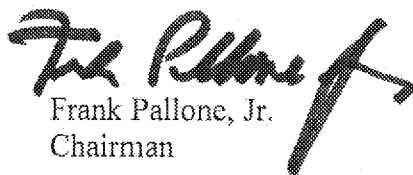
Beck by EPA ethics officials, during this period she could not participate in any specific party matter involving ACC absent approval from EPA's Office of General Counsel.<sup>9</sup>

In order to more fully understand whether communications between EPA political appointees and chemical industry stakeholders were in compliance with all applicable ethics regulations and waivers, we request EPA provide the following documents and information:

1. Please provide all email communications between Ryan Jackson, Dr. Richard Yamada, and Dr. Nancy Beck and any employee or representative of the American Chemistry Council, DuPont, Chemours, and 3M from January 20, 2017 to present.
2. Please provide a list of all meetings, including teleconferences, with representatives or employees of the American Chemistry Council, DuPont, Chemours, and 3M, in which Ryan Jackson, Dr. Richard Yamada, or Dr. Nancy Beck participated. For each meeting, provide a list of participants including name, title, and organizational affiliation, as well as the meeting date, time, location, agenda, and description of issues discussed.
3. Please provide any guidance from EPA's ethics officials authorizing Dr. Beck's participation in matters affecting the ACC, including but not limited to Dr. Beck's potential participation in the January 31, 2018 meeting with the ACC on cross-agency PFAS issues.
4. Please provide the name, title, and organizational affiliation of the individual who requested the January 31, 2018 meeting with the ACC on cross-agency PFAS issues.

Please provide all requested information and documents no later than February 12, 2019. If you have any questions, please contact Jon Monger with the Committee staff at (202) 225-2927. Thank you for your attention to this matter.

Sincerely,

  
Frank Pallone, Jr.  
Chairman

  
Diana DeGette  
Chair  
Subcommittee on Oversight  
and Investigations

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of Chemical Safety and Pollution Prevention, Impartiality Determination to Participate in Litigation Related to the TSCA Risk Evaluation Rule, TSCA Prioritization Rule, and TSCA Inventory Notification (Active-Inactive) Rule (Jan. 11, 2018).

<sup>9</sup> *Id.*

A handwritten signature in black ink, reading "Paul D. Tonko". The signature is fluid and cursive, with a long horizontal stroke at the end.

Paul D. Tonko  
Chairman  
Subcommittee on Environment  
and Climate Change

Cc: The Honorable Greg Walden, Ranking Member  
The Honorable Brett Guthrie Ranking Member, Subcommittee on Oversight and  
Investigations  
The Honorable John Shimkus, Ranking Member, Subcommittee on Environment and  
Climate Change

**Responding to Document Requests from the  
Committee on Energy and Commerce**

In responding to the document request from the Committee on Energy and Commerce, please apply the instructions and definitions set forth below.

**Instructions**

1. In complying with the request, you should produce all responsive documents in your possession, custody, or control.
2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in the request has been, or is currently, known by any other name than that herein denoted, the request should be read also to include them under that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
5. Documents produced in electronic format should also be organized, identified, and indexed electronically. Documents produced in an electronic format should also be produced in a searchable format.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. When you produce documents, you should identify the paragraph or clause in the Committee's request to which the documents respond.
8. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. To the extent that documents were not stored with file labels, dividers, or identifying markers, they should be organized into separate folders by subject matter prior to production.
9. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph or clause of the request to which the documents are responsive, should be provided in an accompanying index.
10. It is not a proper basis to refuse to produce a document because another person or entity possesses a nonidentical or identical copy of the same document.
11. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer backup tape), you should consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (8) and (9) above.

12. In the event that a responsive document is withheld on any basis, you should provide the following information concerning the document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author, and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2017 to the present.
16. This request is continuing in nature and applies to any newly discovered document. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.
17. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
18. All documents should be bates-stamped sequentially and produced sequentially.
19. Two sets of documents should be delivered, one set to the majority staff and one set to the minority staff. The majority set should be delivered to the majority staff in Room 316 of the Ford House Office Building, and the minority set should be delivered to the minority staff in Room 564 of the Ford House Office Building. You should consult with Committee staff regarding the method of delivery prior to sending any materials.
20. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee or identified in a privilege log provided to the Committee.

## Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto). The term also means any graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotape, recordings and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, and recordings), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "documents in your possession, custody, or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that you have placed in the temporary possession, custody, or control of any third party.
3. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, email (desktop or mobile device), text message, instant message, MMS or SMS message, or otherwise.
4. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of the request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
5. The terms "person" or "persons" means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures,

proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

6. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
7. The terms "referring" or "relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.
8. The term "employee" means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.